

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Civil Action No. _____

PATRICIA E. MURPHY,)
)
Plaintiff,)
)
v.)
)
JAMES T. PATTEN,)
GREATER METROPOLITAN)
INVESTMENT SERVICES, INC.,)
T. R. WINSTON & CO., LLC,)
EMPIRE FINANCIAL GROUP, INC.,)
and CHINTAMAN M. DALVI,)
)
Defendants.)
_____)

PLAINTIFF'S MOTION
FOR CONFIRMATION OF ARBITRATION AWARD

Plaintiff Patricia E. Murphy moves the Court for confirmation of an arbitration award entered against defendants James T. Patten, Greater Metropolitan Investment Services, Inc., T.R. Winston & Co., LLC, Empire Financial Group, Inc., and Chintaman M. Dalvi.

NATURE OF ACTION

This is a motion for confirmation of an arbitration award against defendants James T. Patten, Greater Metropolitan Investment Services, Inc., T.R. Winston & Co., LLC, Empire Financial Group, Inc., and Chintaman M. Dalvi (collectively "Defendants"). The arbitration was administered by the Financial Industry Regulatory Authority ("FINRA"). Plaintiff seeks a judgment confirming the arbitration award and entry of judgment thereon pursuant to 9 U.S.C. § 9.

PARTIES AND JURISDICTION

1. Plaintiff Patricia E. Murphy is a citizen and resident of Hampstead, Pender County, North Carolina.

2. Defendant James T. Patten (“Patten”) is a resident of New Jersey and was employed by the broker-dealer firms named herein, and in that capacity acted as stockbroker and financial advisor to Ms. Murphy.

3. Defendant Greater Metropolitan Investment Services, Inc. (“GMIS”) is a New Jersey corporation owned by Patten. It operated as a securities broker-dealer in Bedminster, New Jersey, until 2004.

4. Defendant T.R. Winston & Co., LLC (“Winston”) is a Delaware corporation and maintains its principal place of business in Bedminster, New Jersey. Winston is a securities broker-dealer and a member of FINRA.

5. Defendant Empire Financial Group, Inc., (“Empire”) is a Florida corporation and maintains its principal place of business in Longwood, Florida. Empire is a securities broker-dealer and a member of FINRA.

6. Defendant Chintaman M. Dalvi (“Dalvi”) is a resident of New Jersey and was employed at all relevant times as a registered principal in the Bedminster, New Jersey, offices of GMIS, Winston and Empire during the times defendant James T. Patten was employed at those firms.

7. This Court has jurisdiction over the controversy pursuant to 9 U.S.C. § 1 and pursuant to 28 U.S.C. § 1332(a) in that the amount in controversy is in excess of \$75,000 and the plaintiff and defendants are citizens of different states.

8. Venue is proper in this district under 9 U.S.C. § 9 and 28 U.S.C. § 1391 in that the arbitration at issue in this case was heard in Raleigh, North Carolina.

ADDITIONAL FACTUAL ALLEGATIONS

9. FINRA Dispute Resolution appointed the following persons to serve as the parties' arbitration panel: Leon Henderson, Jr., Esq., Alan L. Berger and Donald Cornelius Morrison, Sr.

10. The hearing site for the arbitration hearing was Raleigh, North Carolina. The case was heard for seven days during the period January 22 through 31, 2008. At the hearing, plaintiff was represented by Andrew O. Whiteman, of Hartzell & Whiteman, L.L.P. Defendant Patten was represented by Richard C. Szuch, Esq. of Bressler, Amery & Ross, P.C. Defendant Winston was represented by Eden L. Rohrer, Esq. of Ellenoff Grossman & Schole, LLP. Defendant Empire was represented by Todd A. Zuckerbrod, Esq., in-house counsel for Empire. Defendant Dalvi was represented by Sheryl M. Goski, Esq. of Herold and Haines PA.

11. On February 6, 2008, FINRA served the arbitrators' unanimous decision, a copy of which is attached hereto as Exhibit 1 ("Arbitration Award") and incorporated herein by reference. The Arbitration Award provides:

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents Patten and Greater Metropolitan are liable, jointly and severally, and shall pay to Claimant compensatory damages in the sum of \$753,417.50 plus interest at the rate of 6% per annum accruing from January 31, 2008 until the date of payment of the Award.

Respondents Patten, Dalvi, and T.R. Winston are liable, jointly and severally, and shall pay to Claimant compensatory damages in the sum of \$255,000.00 plus interest at the rate of 6% per annum accruing from January 31, 2008 until the date of payment of the Award.

Respondents Patten, Dalvi, and Empire are liable, jointly and severally, and shall pay to Claimant compensatory damages in the sum of \$130,000.00 plus interest at the rate of 6% per annum accruing from January 31, 2008 until the date of payment of the Award.

Respondents Patten and Greater Metropolitan, T.R. Winston, Empire, and Dalvi are liable, jointly and severally, and shall pay to Claimant costs in the sum of \$26,924.00.

Respondents Patten and Greater Metropolitan, T.R. Winston, Empire, and Dalvi are liable, jointly and severally, and shall pay to Claimant the sum of \$500.00 representing reimbursement of the claim filing fee previously paid by Claimant to FINRA Dispute Resolution.

12. The arbitration award is final and binding pursuant to the parties' agreement to arbitrate and the Code of Arbitration Procedure of FINRA.

CLAIM FOR RELIEF
(Confirmation of Arbitration Award)

13. Plaintiff is entitled to confirmation of the award pursuant the Federal Arbitration Act.

14. Under Section 9 of the Federal Arbitration Act, any party to an arbitration agreement may apply to the federal district court in the district in which the arbitration award was made to enter the award as a judgment.

15. Plaintiff requests that the Arbitration Award be confirmed as a final judgment of this Court.

PRAYER FOR RELIEF

WHEREFORE, having complained of defendants, plaintiff prays that the Court for the following relief:

1. That the Court confirm and enter judgment in accordance with the Arbitration Award;
2. That the costs of this action be taxed to defendants; and
3. That plaintiff receive such other relief as the Court may deem just and proper.

February 11, 2008

Date

s/Andrew O. Whiteman

Andrew O. Whiteman, Esq.
North Carolina Bar Number 9523
Hartzell & Whiteman, L.L.P.
Attorneys for Plaintiff
2626 Glenwood Avenue, Suite 500
Raleigh, North Carolina 27608
Telephone: (919) 571-8300
Fax: (919) 571-1004
E-mail: andywhiteman@hwlawyers.com